



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF

JUN 30 2005

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michelle L. Bublitz, Division Environmental Manager
ADM Processing, Specialty Food Ingredients, and
Natural Health and Nutrition
Archer Daniels Midland Company
4666 Faries Parkway
Decatur, Illinois 62526

Re: Notice of Violation and Finding of Violation

Dear Ms. Bublitz:

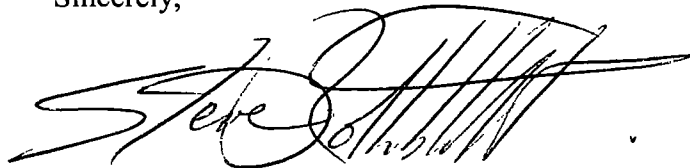
The United States Environmental Protection Agency (U.S. EPA) is issuing the enclosed Notice of Violation (NOV) and Finding of Violation (FOV) to Archer Daniels Midland Company (ADM). The Agency finds that ADM is violating Sections 111, 112, 502 and 503 of the Clean Air Act, 42 U.S.C. §§ 7411, 7412, 7661a and 7661b, at its Decatur, Illinois facility.

U.S. EPA has several enforcement options under Section 113(a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a)(3). These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action. The option that U.S. EPA selects may depend on, among other things, the length of time ADM takes to achieve and demonstrate continuous compliance with the rules cited in the NOV and FOV, and the company's willingness to negotiate a settlement of this matter.

For purposes of enforcement and negotiation, U.S. EPA likely will consolidate this matter with the FOV issued to ADM on March 3, 2005. U.S. EPA has offered ADM the opportunity to confer about the violations alleged in the instant FOV and NOV in the context of ongoing negotiations regarding the March 2005 FOV. Accordingly, we do not anticipate the need for a separate conference on the instant NOV and FOV. ADM may present any additional information it wishes on the specific findings of violation in the instant NOV and FOV, the efforts ADM has taken to comply, and the steps ADM will take to prevent future violations.

The U.S. EPA contact in this matter is Kathy Memmos. You may call her at (312) 353-4293 with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Rothblatt", with a large, sweeping horizontal stroke extending to the right.

Stephen Rothblatt, Director
Air and Radiation Division

Enclosure

cc: Julie Armitage
Illinois Environmental Protection Agency
P.O. Box 19506
Springfield, Illinois 62794-9506

John Justice, Regional Manager
Region 3
Illinois Environmental Protection Agency
2009 Mall Street
Collinsville, Illinois, 62234

1. On June 19, 1978, U.S. EPA promulgated the prevention of significant deterioration (PSD) of air quality standards pursuant to Subtitle I, Part C of the Clean Air Act. The PSD regulations were revised on August 1, 1980 (45 Fed. Reg. 52676). These regulations are codified at 40 C.F.R. § 52.21 (43 Fed. Reg. 26403).
2. Part C of Title I of the Act and the PSD regulations implementing Part C, at 40 C.F.R. § 52.21, prohibit a major stationary source from constructing a modification without first obtaining a PSD permit if the modification is major in that it will result in a significant net increase in emissions of a regulated pollutant and if the source is located in an area which has achieved the National Ambient Air Quality Standards (NAAQS) for that pollutant.

3. The PSD regulations were incorporated into the Illinois SIP on August 7, 1980. 40 C.F.R. § 52.738 (45 Fed. Reg. 52741, August 7, 1980, as amended at 46 Fed. Reg. 9584, January 29, 1981).

Requirements for SIP Construction Permits

4. On May 31, 1972, U.S. EPA approved Illinois Pollution Control Board (PCB) Rules 103(a)(1) as part of the federally enforceable SIP for Illinois. 37 Fed. Reg. 10842. Due to renumbering of the Illinois PCB Rules, Rules 103(a)(1), as approved by U.S. EPA, is currently set forth at Ill. Admin. Code Title 35, § 201.142.

Requirements for SIP Operating Permits

5. On May 31, 1972, U.S. EPA approved Illinois Pollution Control Board (PCB) Rules 103(b)(1) and 103(b)(2) as part of the federally enforceable SIP for Illinois. 37 Fed. Reg. 10842. Due to renumbering of the Illinois PCB Rules, Rules 103(b)(1) and 103(b)(2), as approved by U.S. EPA, are currently set forth at Ill. Admin. Code Title 35, §§ 201.143 and 201.144, respectively.
6. Section 201.143 prohibits the operation of any new emission source or new air pollution control equipment of a type for which a construction permit is required by Section 201.142 without first obtaining an operating permit from the State of Illinois.
7. Section 201.144 prohibits the operation of any emission source constructed or modified prior to April 14, 1972, in violation of the terms and conditions of its operating permit.
8. The Illinois SIP requirements identified above are federally enforceable under Sections 110 and 113 of the CAA, 42 U.S.C. §§ 7410 and 7413.

Requirements for Title V Operating Permits¹

9. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), provides that no source may operate without a Title V permit after the effective date of any permit program approved or promulgated under Title V of the CAA.
10. Section 503(d) of the CAA, 42 U.S.C. § 7661b(d), sets forth the requirement to timely submit an application for a permit, including required information.

¹ Although the Clean Air Act does not require U.S. EPA to issue an NOV for purposes of alleging violations of Title V requirements, U.S. EPA wants to ensure that the source is comprehensively notified of all significant Clean Air Act violations known to U.S. EPA at this time.

11. 40 C.F.R. § 70.5(a) provides that an owner or operator shall submit a timely and complete permit application in accordance with Part 70 requirements.
12. 40 C.F.R. § 70.7(b) provides that a source subject to Part 70 requirements must operate in compliance with a Part 70 permit.
13. U.S. EPA promulgated final interim approval of the Illinois Title V program on March 7, 1995 (60 Fed. Reg. 12478), and the program became effective on that date.

Stratospheric Ozone Standards

14. Pursuant to 40 C.F.R. § 82.159(b), the Standards for Protection of Stratospheric Ozone, Recycling and Emissions Reduction, 40 C.F.R. Part 82, Subpart F, apply to any person servicing, maintaining, repairing, or owning appliances, as those terms are defined at 40 C.F.R. § 82.152.
15. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.152, define “industrial process refrigeration” as “complex customized appliances used in the chemical ... industries. These appliances are directly linked to the industrial process.”
16. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.156(i)(2), require the owners or operators of industrial process refrigeration equipment normally containing more than 50 pounds of refrigerant to repair leaks if the appliance is leaking at a rate such that the loss of refrigerant will exceed 35 percent of the total charge during a 12-month period. Repairs must bring annual leak rates to below 35 percent during a 12-month period.
17. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.156(i)(3), require owners or operators of industrial process refrigeration equipment to conduct an initial verification test at the conclusion of the repairs and a follow-up verification test. The follow-up verification test must be conducted within 30 days of completing the repairs or within 30 days of bringing the appliance back on-line, if taken off-line, but no sooner than when the appliance has achieved normal operating characteristics and conditions.
18. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.166 (m), require that all relevant records be maintained and kept for a minimum of three years unless otherwise indicated.
19. The Stratospheric Ozone Standards, at 40 C.F.R. § 82.166 (o), require the owners or operators of appliances to maintain on-site and timely report to EPA the following information where such reporting and recordkeeping is required, in accordance with 40 C.F.R. § 82.156 (i)(7) and (i)(8). This information must be relevant to the affected appliance and must include:

- (1) The identification of the industrial process facility;
- (2) The leak rate;
- (3) The method used to determine the leak rate and full charge;
- (4) The date a leak rate above the applicable allowable rate was discovered.
- (5) The location of leaks(s) to the extent determined to date;
- (6) Any repair work that has been completed thus far and the date that work was completed;
- (7) A plan to complete the retrofit or retirement of the system;
- (8) The reasons why more than one year is necessary to retrofit or retire the system;
- (9) The date of notification to EPA; and
- (10) An estimate of when retrofit or retirement work will be completed. If the estimated date of completion changes from the original estimate and results in extending the date of completion, the owner or operator must submit to EPA the new estimated date of completion and documentation of the reason for the change within 30 days of discovering the need for the change, and must retain a dated copy of this submission.

Factual Background

20. ADM owns and operates a Vitamin E plant at its Decatur manufacturing complex located at 4666 Faries Parkway, Decatur, Illinois.
21. ADM's facility is subject to, among other regulations, the Stratospheric Ozone Standards, the requirements of PSD Construction Permit No. 93120004, and the requirements of Title V and Title I Permit No. 96030038.
22. ADM operates at the facility nine process chillers, each containing more than 50 pounds of a Class II ozone depleting substance.
23. ADM constructed the Vitamin E plant pursuant to a Joint Construction and Operating Permit issued December 22, 1993, by Illinois EPA, and began operation in 1994.
24. On October 22, 1998, Illinois EPA issued a PSD Construction Permit No. 93120004 to ADM for its Vitamin E manufacturing plant. Condition 10(ii) of that Permit requires visual inspections of all air pollution particulate matter control equipment to be conducted on at least a weekly basis. Permit Condition 10(iv) requires that records of such inspections be kept on site.

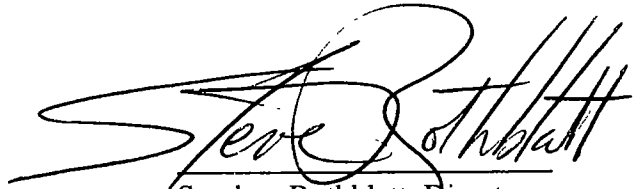
25. On August 18, 2004, Illinois EPA issued to ADM a Title V Clean Air Act Permit and a Title I Permit for the Decatur facility. This Title V/Title I Permit adopted all applicable requirements established in the Construction and Operating Permits for the Vitamin E plant and specifically incorporated by reference the State Operating and Construction Permits for the plant.
26. On December 6 and 7, 2004, U.S. EPA conducted a compliance inspection at ADM's Decatur, Illinois facility.
27. On December 10, 2004, ADM submitted to U.S. EPA a Self Disclosure Letter of Potential Violations regarding the violations alleged in this NOV and FOV.
28. On April 19 and May 9, 2005, U.S. EPA received compliance status letters from ADM regarding the violations alleged in this NOV and FOV.

Violations

29. ADM failed to calculate and track leak rates for nine process chillers in order to ensure that all chiller leaks in excess of 35% of the total charge are repaired within 30 days of discovery at any point during a 12-month period. This is a violation of 40 C.F.R. § 82.156(i)(2).
30. ADM failed to ensure that both the initial and follow-up repair verification tests were performed. This is a violation of 40 C.F.R. § 82.156(i)(3).
31. ADM failed to annualized leak rates, as calculated after each service for each chiller. This is a violation of 40 C.F.R. § 82.166(o)(2).
32. ADM failed to identify the method used to determine the leak rate and full charge. annualized leak rates, as calculated after each service for each chiller. This is a violation of 40 C.F.R. § 82.166(o)(3).
33. ADM failed to identify the date on which any leak rate above the applicable allowable rate was discovered. This is a violation of 40 C.F.R. § 82.166(o)(4).
34. ADM failed to locate leaks. This is a violation of 40 C.F.R. § 82.166(o)(5).
35. ADM failed to identify any repair work that had been completed, and the date that such work was completed. This is a violation of 40 C.F.R. § 82.166(o)(6).
36. ADM failed to identify a plan to complete the retrofit or retirement of the system. This is a violation of 40 C.F.R. § 82.166(o)(7).

37. ADM failed to identify the reasons why more than one year is necessary to retrofit or retire the system, if applicable. This is a violation of 40 C.F.R. § 82.166(o)(8).
38. ADM failed to identify the date of notification to U.S. EPA. This is a violation of 40 C.F.R. § 82.166(o)(9).
39. ADM failed to estimate when retrofit or replacement work will be completed. This is a violation of 40 C.F.R. § 82.166(o)(10).
40. ADM failed to conduct visual inspections of all air pollution particulate matter control equipment on a weekly basis for the Vitamin E plant. This is a violation of PSD Permit No. 93120004 and Title V/Title I Permit No. 96030038.
41. ADM failed to keep required records of visual inspections of all air pollution particulate matter control equipment for the Vitamin E plant. This is a violation of PSD Permit No. 93120004 and Title V/Title I Permit No. 96030038.

6/30/2005
Date


Stephen Rothblatt, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Shanee Rucker, certify that I sent a Finding of Violation, No. EPA-5-05-17-IL, by
Certified Mail, Return Receipt Requested, to:

Michelle L. Bublit, Division Environmental Manager
ADM Processing, Specialty Food Ingredients, and Natural Health and Nutrition
Archer Daniels Midland Company
4666 Faries Parkway
Decatur, Illinois 62526

I also certify that I sent copies of the Finding of Violation by first class mail to:

Julie Armitage, Section Manager
Compliance and Systems Management Section
Illinois Environmental Protection Agency
P.O. Box 19506
Springfield, Illinois 62794-9506

John Justice, Regional Manager
Region 3
Illinois Environmental Protection Agency
2009 Mall Street
Collinsville, Illinois, 62234

on the 30 day of June, 2005.

Phyllis Dixon for
Shanee Rucker,
Administrative Program Assistant
AECAS, (MI/WT)

CERTIFIED MAIL RECEIPT NUMBER: 700103200006 14478621